

REMARKS

Claims 1-11 are pending in the present application. The applicants respectfully request reconsideration and allowance of the present application in view of the above amendments and the following remarks.

The applicants note with appreciation the acknowledgement of the claim for priority under section 119 and the notice that all certified copies of the priority documents have been received.

The applicants acknowledge and appreciate receiving a copy of the form PTO-1449 submitted with the Information Disclosure Statement filed on March 23, 2004 on which the Examiner has initialed all listed items.

Claims 6 - 11 are objected to for informalities which are corrected herein not for reasons related to patentability.

Claim 2 stands rejected under 35 USC §112, second paragraph, as being allegedly indefinite. While the propriety of the rejection is respectfully questioned, claim 2 is amended to improve the clarity thereof.

To establish a *prima facie* case of indefiniteness, some evidence must be provided to show that one of ordinary skill in the art would be unable to ascertain the scope of the claims *with a reasonable degree of certainty*. No such evidence has been provided.

Further, claim 2 specifically recites that the first and third masses located at both the ends of the mass are mounted on the semiconductor substrate through beams *so as to be allowed to be displaced in the direction orthogonal to a connecting direction of the masses*. Thus, notwithstanding that one of ordinary skill in the art would have been able to understand and identify the antecedent basis for the disputed term “the displacement-allowed direction”, actual antecedent basis is present for the term. It is well established that failure to provide explicit

antecedent basis for terms does not always render a claim indefinite, as long as the term would be reasonably clear to one of ordinary skill in the art (MPEP 2173.05(e)).

However, in the interests of improving clarity and not for reasons related to patentability, claim 2 is amended herein. The recitation of: “so as to be allowed to be displaced in the direction orthogonal to a connecting direction”, has been changed to: “so as to be allowed to be displaced in *a* direction orthogonal to a connecting direction”, and the subsequent recitation of “the displacement-allowed direction” clearly refers back thereto.

Claims 1-2 stand rejected under 35 USC §102(e) as being allegedly anticipated by Mochida, U.S. Patent No. 6,539,803. Independent claim 1 is amended herein to address the rejection.

Independent claim 1 is amended herein to recite, *inter alia*, that the claimed plurality of divided masses are connected together through connecting beams, which move independently, for permitting the plurality of divided masses to be displaced so as to approach one another and move away from one another. Further, the claimed displacement of the mass can be detected in two axial directions orthogonal to each other. The amendments are in accordance with the embodiment shown, for example, in FIG. 1A of applicants’ specification, in which a sensor detects acceleration in two orthogonal axial directions and the connecting beams CB1-CB4 move independently.

Mochida, at best, describes a force measuring device including divided masses 73, 74, and 75 and connecting beams 76 and 78. Mochida fails to disclose that connecting beams 76-78 move independently, for example, since the connecting beams 76-78 are clearly shown in FIG. 10 Mochida as being formed integrally. Mochida thus vibrates the mass in one direction, e.g. the X-axial direction, while detecting in the other direction, e.g. the Y-axial direction as described for example, in col 27 line 50 – col 28 line 56. An angular velocity Ω corresponding to

variations in capacitances associated with an acceleration in the detection direction can be derived, however it is clearly described in Mochida that detection of the angular velocity Ω is associated with movement in the detection direction, e.g. Y-axial direction only (see, e.g., col 27, line 67 - col 28, line 2) Thus, applicants emphasize that *it is not possible* for Mochida to detect in two axial directions orthogonal to each other in the manner claimed, such as, for example, through the operation of the claimed independently moving beams.

Accordingly, for at least the reasons set forth hereinabove, a *prima facie* case of anticipation cannot be sustained in that the applied reference fails to disclose all the claimed features as required. It is respectfully requested that the rejection of independent claim 1 be reconsidered and withdrawn.

Claim 2, by virtue of depending from independent claim 1, is allowable for at least the reasons set forth hereinabove. It is respectfully requested therefore that the rejection of claims 2 be reconsidered and withdrawn.

Claims 3-6 and 9 stand rejected under 35 USC §103(a) as being allegedly unpatentable over Mochida in view of Katsumata, U.S. Patent No. 6,796,180. The rejection is respectfully traversed.

With regard to Katsumata, in accordance with MPEP 706.02(1)(3), applicants state that at the time the invention was made, the present application and Katsumata were owned by, or subject to an obligation of assignment to, the same entity. Accordingly, Katsumata cannot properly be applied as a reference in the present application and the rejection should be withdrawn.

Applicants further note that claims 3 and 9 have been amended herein into independent form including the features of the base claims. Since the Examiner admits the Mochida fails to

teach, for example, the claimed insulating film, claim 3 is allowable in view of the removal of Katsumata from the applied art combination.

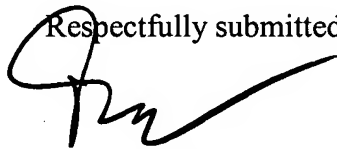
With regard to claim 9, the Examiner merely asserts that it would have been obvious to use a cap without providing proper support for the rejection. Accordingly, the rejection of claim 9 should be withdrawn if no art can be provided showing the claimed cap.

For at least the reasons set forth hereinabove, a *prima facie* case of obviousness has not properly been established in that Katsumata is not properly included in the applied art combination, which, as a result, fails to teach or suggest all the claimed features as required. It is respectfully requested that the rejection of claim 3-6 and 9 be reconsidered and withdrawn.

In view of the foregoing, the applicants respectfully submit that the present application is in condition for allowance. A timely notice to that effect is respectfully requested. If questions relating to patentability remain, the examiner is invited to contact the undersigned by telephone.

Please charge any unforeseen fees that may be due to Deposit Account No. 50-1147.

Respectfully submitted,



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